

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

LOST LAKE HOLDINGS LLC et al.

Plaintiffs,

vs

TOWN OF FORESTBURGH, et al.

Defendants.

Civ. Action No. 7:22-cv-10656

DECLARATION OF STEVEN BARSHOV

Steven Barshov declares as follows, pursuant to 28 U.S.C. § 1746:

1. I am a partner with Sive, Paget & Riesel, P.C., attorneys for the Plaintiffs in this action and make this declaration in that capacity.
2. I have personal knowledge of the facts set forth herein.
3. I am over the age of eighteen (18) and competent to testify in a court of law.
4. I respectfully submit this Declaration in support of the Plaintiffs' Motion for Preliminary Injunction being filed contemporaneously with the same.
5. Attached hereto as **Exhibit A** is a true and correct copy of relevant excerpts of the transcribed recording of the June 23, 2022 hearing *In The Matter Of The Application Of: Rose Improvement and Lost Lake Holdings LLC*, before the Town of Forestburgh Zoning Board of Appeals, as certified by Michelle Lemberger, a shorthand reporter and Notary Public within and for the State of New York.

6. Attached hereto as **Exhibit B** is a true and correct copy of the letter dated July 30, 2021 together with attachments that I sent to Glenn A. Gabbard, Building Inspector for the Town of Forestburgh, NY.
7. Attached hereto as **Exhibit C** is a true and correct copy of the letter dated August 18, 2021 that I received from Mr. Gabbard.
8. Attached hereto as **Exhibit D** is a true and correct copy of the letter dated September 13, 2021, together with attachments, that I sent to Mr. Gabbard.
9. Attached hereto as **Exhibit E** is a true and correct copy of the letter dated October 7, 2021 and the attached Memorandum from Chuck Voss dated October 5, 2021 that I received from Mr. Gabbard.
10. Attached hereto as **Exhibit F** is a true and correct copy of the letter dated October 28, 2021 that I sent to Mr. Gabbard.
11. Attached hereto as **Exhibit G** is a true and correct copy of the letter dated November 12, 2021 that I sent to Town of Forestburgh Supervisor Daniel S. Hogue, Jr.
12. Attached hereto as **Exhibit H** is a true and correct copy of the time records for attorney hours provided by Javid Afzali in his work for the Town of Forestburgh. I obtained these records from the Town of Forestburgh pursuant to a Freedom of Information Law (“FOIL”) N.Y. Pub. Off. Law § 84-90 request dated October 28, 2021.
13. Attached hereto as **Exhibit I** is a true and correct copy of the Appeal from the Denial of Building Permit Applications dated January 20, 2022, filed with the Town of Forestburgh Zoning Board of Appeals on behalf of the Plaintiffs, Lost Lake Holdings LLC and Mishconos Mazah LLC.

14. Attached hereto as **Exhibit J** is a true and correct copy of the letter dated February 17, 2022 that I sent to Carl Amaditz, Chairman of the Town of Forestburgh Zoning Board of Appeals.
15. Attached hereto as **Exhibit K** is a true and correct copy of relevant excerpts of the transcribed recording of the June 22, 2022 hearing *In The Matter Of The Application Of: Rose Improvement and Lost Lake Holdings LLC*, before the Town of Forestburgh Zoning Board of Appeals, as certified by Michelle Lemberger, a shorthand reporter and Notary Public within and for the State of New York.
16. Attached hereto as **Exhibit L** is a true and correct copy of relevant excerpts of the transcribed recording of the July 11, 2022 hearing *In The Matter Of The Application Of: Rose Improvement and Lost Lake Holdings LLC*, before the Town of Forestburgh Zoning Board of Appeals, as certified by Michelle Lemberger, a shorthand reporter and Notary Public within and for the State of New York.
17. Attached hereto as **Exhibit M** is a true and correct copy of relevant excerpts of the transcribed recording of the July 19, 2022 hearing *In The Matter Of The Application Of: Rose Improvement and Lost Lake Holdings LLC*, before the Town of Forestburgh Zoning Board of Appeals, as certified by Michelle Lemberger, a shorthand reporter and Notary Public within and for the State of New York.
18. Attached hereto as **Exhibit N** is a true and correct copy of relevant excerpts of the transcribed recording of the August 8, 2022 hearing *In The Matter Of The Application Of: Rose Improvement and Lost Lake Holdings LLC*, before the Town of Forestburgh Zoning Board of Appeals, as certified by Michelle Lemberger, a shorthand reporter and Notary Public within and for the State of New York.

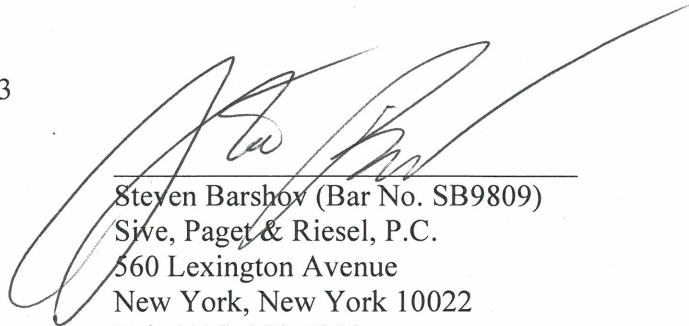
19. Attached hereto as **Exhibit O** is a true and correct copy of the letter dated May 26, 2022 that I sent to Carl Amaditz, Chairman of the Town of Forestburgh Zoning Board of Appeals.
20. Attached hereto as **Exhibit P** is a true and correct copy of relevant excerpts of the transcribed recording of the August 10, 2022 hearing *In The Matter Of The Application Of: Rose Improvement And Lost Lake Holdings LLC* before the Town of Forestburgh Zoning Board of Appeals, as certified by Michelle Lemberger, a shorthand reporter and Notary Public within and for the State of New York.
21. Attached hereto as **Exhibit Q** is a true and correct copy of the email dated March 28, 2022 sent to Mr. Amaditz by Ivan Orisek, on which I was copied and which I received, containing Mr. Orisek's proposed Amicus Brief which he sought to enter *In The Matter Of The Application Of: Rose Improvement And Lost Lake Holdings LLC*, in support of the Project.
22. Attached hereto as **Exhibit R** is a true and correct copy of the Ruling on Petitions for Amicus Status *In The Matter Of The Application Of: Rose Improvement And Lost Lake Holdings LLC*, dated August 10, 2022 by the Town of Forestburgh Zoning Board of Appeals.
23. Attached hereto as **Exhibit S** is a true and correct copy of relevant excerpts of the transcribed recording of the September 29, 2022 hearing *In The Matter Of The Application Of: Rose Improvement And Lost Lake Holdings LLC*, before the Town of Forestburgh Zoning Board of Appeals, as certified by Michelle Lemberger, a shorthand reporter and Notary Public within and for the State of New York.

24. Attached hereto as **Exhibit T** is a true and correct copy of the cover letter dated June 21, 2022 and attached amicus brief of even date submitted by the Hartwood Club through counsel *In The Matter Of The Application Of: Rose Improvement And Lost Lake Holdings LLC*.
25. Attached hereto as **Exhibit U** is a true and correct copy of the FOIL exemption catalog and transmittal letter that I obtained from Javid Afzali, counsel for the Town of Forestburgh, in *Lost Lake Holdings, LLC v Town of Forestburgh et al.*, E2022-556 (Sullivan County Supreme Court).
26. Attached hereto as **Exhibit V** is a true and correct copy of the minutes of the July 2, 2020 monthly meeting of the Town of Forestburgh Board, which was provided to me by the Town of Forestburgh pursuant to a FOIL request dated October 28, 2021.
27. I have never received a response to my correspondence dated September 13, 2021 from Mr. Gabbard or any other Town of Forestburgh official.
28. Attached hereto as **Exhibit W** is a true and correct copy of the engagement letter dated December 21, 2020 from Harris Beach, LLC to the Supervisor of the Town of Forestburgh, which was provided to me by the Town of Forestburgh pursuant to a FOIL request dated October 28, 2021.
29. After Lost Lake Holding LLC (“LLH”), through its representative, submitted its building permit application for the lot with Tax ID 3.C-6-3 (Lot 303) in the Lost Lake Project in June of 2021, I contacted Javid Afzali, counsel for the Town of Forestburgh, by telephone and confirmed that LLH would not seek to modify the Project, including Phase I.

30. In response to the Stop Work Order dated February 1, 2023 regarding, *inter alia*, paving activity and addressed to Lost Lake Holdings LLC and Rose Improvement, Inc., on February 14, 2023, I left a voice message for Mr. Afzali by telephone requesting the location of such allegedly illegal paving.
31. Mr. Afzali responded to my February 14, 2023 voicemail message on the same date, but he failed to identify any location where such allegedly illegal paving occurred. Attached hereto as **Exhibit X** is a true and correct copy of the email Mr. Afzali sent to me on February 14, 2023.
32. Attached hereto as **Exhibit Y** is a true and correct copy of a letter dated April 29, 2013 from William Sipos, the then-Supervisor of the Town of Forestburgh to Thomas Rudolph, Regional Engineer and Acting Regional Director for the New York State Department of Environmental Conservation, which was provided to me by the Town of Forestburgh pursuant to a FOIL request dated October 28, 2021.
33. Attached hereto as **Exhibit Z** is a true and correct copy of minutes of the November 5, 2020 meeting of the Town of Forestburgh, which was provided to me by the Town of Forestburgh pursuant to a FOIL request dated October 28, 2021.
34. Attached hereto as **Exhibit AA** is a true and correct copy of the August 6, 2020 minutes of the Town of Forestburgh Board, which was provided to me by the Town of Forestburgh pursuant to a FOIL request dated October 28, 2021.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 1, 2023

A large, stylized handwritten signature in black ink, likely belonging to Steven Barshov, is written over a horizontal line.

Steven Barshov (Bar No. SB9809)
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